
TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Final Rule

LSA Document #16-217(F)

DIGEST

Amends [329 IAC 10-3-1](#) and [329 IAC 10-9-1](#) to incorporate by reference the federal requirements found at 40 CFR 257, Subpart D, for the operation and closure of a coal combustion residuals (CCR) impoundment. Effective 30 days after filing with the Publisher.

HISTORY

Findings and Determination of the Commissioner Pursuant to [IC 13-14-9-8](#): June 1, 2016, Indiana Register (DIN: [20160601-IR-329160217FDA](#)).

Notice of First Hearing: June 1, 2016, Indiana Register (DIN: [20160601-IR-329160217PHA](#)).

Date of Hearing: August 10, 2016.

[329 IAC 10-3-1](#); [329 IAC 10-9-1](#)

SECTION 1. [329 IAC 10-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 10-3-1](#) Exclusions; general

Authority: [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-19-3-1](#)

Affected: [IC 13-14](#); [IC 13-19-3](#); [IC 13-20](#); [IC 36-9-30](#)

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:

- (1) Disposal of only uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.
- (2) Land application activities regulated under ~~rules of the water pollution control board at~~ [327 IAC 6.1](#) and [327 IAC 7.1](#).
- (3) Confined feeding control activities regulated under ~~rules of the water pollution control board at~~ [327 IAC 16-327 IAC 19](#).
- (4) Wastewater discharge activities regulated under ~~rules of the water pollution control board at~~ [327 IAC 5](#).
- (5) Solid waste management activities regulated under [329 IAC 11](#).
- (6) Disposal of uncontaminated and untreated natural growth solid waste, including tree limbs, stumps, leaves, and grass clippings.
- (7) Disposal of saw dust derived from processing untreated natural wood.
- (8) **Except as provided in [329 IAC 10-9-1](#), coal combustion residuals impoundments subject to 40 CFR 257, Subpart D**, disposal of coal ash, transported by water, into an ash pond which has received a water pollution control facility construction permit under ~~rules of the water pollution control board at~~ [327 IAC 3](#).
- (9) **Except as provided in [329 IAC 10-9-1](#), coal combustion residuals impoundments subject to 40 CFR 257, Subpart D**, the operation of surface impoundments; however, the final disposal of solid waste in ~~such facilities~~ **surface impoundments** at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (8) and (10). The commissioner's approval is based on management practices that are protective of human health and the environment.
- (10) Disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.
- (11) The uses and disposal of coal waste as exempted under [IC 13-19-3-3](#).
- (12) Activities concerning wastes containing polychlorinated biphenyls (PCBs) regulated under [329 IAC 4.1](#), except those regulated as alternative daily cover under [329 IAC 10-20-14.1](#).
- (13) Storage, transportation, and processing of used oil as regulated under [329 IAC 13](#).
- (14) The legitimate use of slag under [IC 13-19-3-8](#).
- (15) The legitimate use of foundry sand under [IC 13-19-3-7](#).
- (16) Any other use of solid waste approved by the commissioner based on the commissioner's determination that the use is a legitimate use that does not pose a threat to public health or the environment.

(Solid Waste Management Division; [329 IAC 10-3-1](#); filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2749; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3771; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1797, eff Apr 1, 2004; filed Nov 10, 2016, 1:37 p.m.: [20161207-IR-329160217FRA](#))

[329 IAC 10-9-1](#) Types of facilities

Authority: [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-19-3-1](#)

Affected: [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 1. **(a)** The following categories will be used for the purpose of defining site requirements and permissible wastes to be received for all solid waste land disposal facilities:

- (1) Municipal solid waste landfill (MSWLF).
- (2) Construction/demolition site.
- (3) Restricted waste site as follows:
 - (A) Restricted waste site Type I.
 - (B) Restricted waste site Type II.
 - (C) Restricted waste site Type III.
 - (D) Restricted waste site Type IV.
- (4) Nonmunicipal solid waste landfill.

(b) The owner and operator of a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50* through 40 CFR 257.107*, except the phrase "not to exceed a height of 6 inches above the slope of the dike" is deleted from the following sections:

- (1) 40 CFR 257.73(a)(4).
- (2) 40 CFR 257.73(d)(1)(iv).
- (3) 40 CFR 257.74(a)(4).
- (4) 40 CFR 257.74(d)(1)(iv).

(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50* through 40 CFR 257.107* and on other management practices that are protective of human health and the environment.

***These documents are incorporated by reference. Copies may be viewed online from the Government Publishing Office at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.**

(Solid Waste Management Division; [329 IAC 10-9-1](#); filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3787; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: [20070523-IR-329070138BFA](#); readopted filed Jul 29, 2013, 9:20 a.m.: [20130828-IR-329130179BFA](#); filed Nov 10, 2016, 1:37 p.m.: [20161207-IR-329160217FRA](#))

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Findings and Determination of the Commissioner Pursuant to [IC 13-14-9-8](#): [20160601-IR-329160217FDA](#)

Hearing Held: August 10, 2016

Approved by Attorney General: October 20, 2016

Approved by Governor: November 2, 2016

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Documents Incorporated by Reference: 40 CFR 257 Subpart D, Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments

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